
Appeal Decision

Site visit made on 9 May 2017

by AJ Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 May 2017

Appeal Ref: APP/Z2260/W/16/3166327

Land rear of 24 Devon Gardens, Birchington CT7 9SS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr R Jennings against the decision of Thanet District Council.
 - The application Ref F/TH/16/1105, dated 9 August 2016, was refused by notice dated 6 October 2016.
 - The development proposed is the erection of a two bedroom bungalow with off street parking space.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two bedroom bungalow with off street parking space at land to the rear of 24 Devon Gardens, Birchington CT7 9SS in accordance with the terms of the application, Ref F/TH/16/1105, dated 9 August 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: RJ/DB/16/7/1 and RJ/DB/16/7/2.
 - 3) Prior to the first occupation of the development, visibility splays of 2m by 2m shall be provided, with no obstruction above a height of 0.6m. The visibility splays shall thereafter be maintained.
 - 4) Prior to the commencement of the development hereby approved samples of the materials to be used in the construction of the external surfaces of the development hereby approved shall be submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved samples.

Main Issue

2. The main issue is the effect of the proposed dwelling on the character and appearance of the surrounding area.

Reasons

3. 24 Devon Gardens is a detached bungalow on the junction with Dorset Gardens that comprises predominantly semi-detached bungalows behind modest front
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- gardens. The wider area contains a mix of detached and semi-detached bungalows and two storey houses.
4. The proposed bungalow would reflect the design of the semi-detached bungalows in Dorset Gardens, albeit that it would be detached, and, as such, would reflect the rhythm and pattern of development in the street. It would be located within the rear garden of 24 Devon Gardens, reducing the amount of private outside space available to that property. The remaining part of the garden is enclosed by a section of close boarded fence on a short wall adjacent to the pavement that appears to have run along the property boundary with the road, although is now partially removed, and reflects a similar arrangement to the opposite side of the road.
 5. A fence to both sides of the road at this point would result in the road feeling enclosed. Consequently, whilst the proposed dwelling would be close to the rear of 24 Devon Gardens with limited space between the existing and proposed properties, the proposed front garden area would reflect those of the neighbouring semi-detached properties such that the proposed development would provide a more spacious feel to the area.
 6. I note that a bungalow has been constructed at 33a Devon Gardens in what was a rear garden with a similar gap to that donor property. Whilst that was a larger site, given the proximity to the donor properties in both cases the proposed development would have a similar effect on the character and appearance of the area as that development.
 7. For these reasons, I conclude that the proposed dwelling would reflect the character and appearance of the surrounding area. As such, the development would comply with Policies D1 and SR11 of the Thanet Local Plan that require development to be of high quality and inclusive design, layout and materials that respect or enhance the character or appearance of the surrounding area, including protecting private open space that contributes to the character of the area.
 8. The proposed development would result in both the donor property and proposed dwelling having small rear gardens. However, both gardens would provide sufficient outside amenity space for the needs of future occupants. The limited height of the proposed dwelling would ensure that it would not be overbearing or cause overlooking of neighbouring properties, so would not harm the living conditions of neighbouring residents. I note that on road parking can be an issue in the vicinity, but the proposed dwelling would provide sufficient off road parking to meet its needs and I do not consider that the proposal would result in harm to highway safety.
 9. Reference is made to the effect of the development on wildlife, but no evidence has been presented to confirm that protected species are present on the site, so I do not consider an ecological survey is required in this instance. I understand that there may have been previous applications for development of this site, but have been provided with limited information on that. I have considered the proposed development on its own merits and future applications for similar development would also be considered on their individual merits.
 10. Policy H1 of the LP states that residential development will only be permitted on previously developed land within existing built up confines. As such, the proposed development would conflict with Policy H1 of the LP and, therefore,

would be in conflict with the development plan as a whole. The more recent Framework excludes residential gardens within built-up areas from the definition of previously developed land and confirms that policies can resist their development in certain circumstances. However, the blanket approach within Policy H1 is not supported by the Framework.

11. I understand that Policy H01 of the draft Local Plan suggests that residential development would be acceptable within residential gardens, provided that it would not be harmful in terms of the effect of development on the character and amenity of the surrounding area and neighbouring occupiers. This reflects the Framework, which also seeks to boost significantly the supply of housing and the Council confirm that there is a need for housing within Thanet. Given this context and that Policy H1 of the LP is not consistent with the Framework, I consider that only limited weight can be attached to Policy H1 of the LP. I conclude that the contribution of this single dwelling to the supply of land would outweigh the conflict with the LP.

Conditions

12. I have imposed a condition specifying the relevant drawings as this provides certainty. Conditions are necessary to ensure adequate visibility splays are provided to protect highway and pedestrian safety. A condition is necessary for samples of materials to be submitted and approved prior to development commencing to ensure that they would maintain the character and appearance of the area. In some cases I have amended the wording of conditions suggested by the Council in the interests of clarity.
13. I have not included a condition removing permitted development rights as I do not consider it to be necessary. Such rights should be removed only in instances of specific and precise justification. I find no exceptional circumstances in this case such as to warrant the wholesale removal of these rights.

Conclusion

14. For the above reasons and taking into account all other matters raised I conclude that the appeal should succeed.

AJ Steen

INSPECTOR